

1  
2  
3  
4  
5  
6  
7  
8  
9

10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12

13 RIGHHAVEN, LLC, a Nevada limited ) 2:10-cv-01046-HDM-LRL  
liability company, )  
14 )  
Plaintiff, ) ORDER  
15 )  
vs. )  
16 BEN JONES, an individual, )  
17 )  
Defendant. )  
18 )

---

19 The complaint in this action was filed on June 28, 2010 (#1).  
20 The summons was issued as to defendant Ben Jones on July 7, 2010  
21 (#5). An affidavit of service was filed indicating that the  
22 summons had been served on July 22, 2010 (#7). Based on the  
23 affidavit of service (#7), the Clerk of Court terminated the Rule  
24 4(m) deadlines in this case. On August 3, 2010, plaintiff  
25 Righthaven moved to withdraw (#8) the affidavit of service (#7),  
26 having "inadvertently served [the summons and complaint] on an  
27 improper person, rather than Mr. Jones." (#8) This court granted  
28 the motion to withdraw (#8) on August 6, 2010 (#9). Since August

1 6, 2010, no action has been taken in this case until plaintiff's  
2 attorney Shawn Mangano filed a notice of appearance (#10) on April  
3 6, 2011. On June 19, 2011, plaintiff filed a second certificate of  
4 interested parties (#11). The record at that time did not reflect  
5 that plaintiff had re-served the defendant. Accordingly, on June  
6 21, 2011, this court entered an order (#12) granting plaintiff ten  
7 (10) days in which to show cause why this matter should not be  
8 dismissed pursuant to Federal Rule of Civil Procedure 4(m). As of  
9 July 20, 2011, plaintiff has failed to make such a showing or take  
10 further action in this case.

11 Federal Rule of Civil Procedure 4(m) requires a defendant be  
12 served within 120 days after the complaint is filed. Fed. R. Civ.  
13 P. 4(m). If the defendant is not served within that time period,  
14 "the court - on motion or on its own after notice to the plaintiff  
15 - must dismiss the action without prejudice against that defendant  
16 or order that service be made within a specified time." *Id.* If the  
17 plaintiff can show "good cause for the failure, the court must  
18 extend the time for service for an appropriate period." *Id.*

19 Plaintiff has failed to show "good cause" for its failure to  
20 serve the defendant Ben Jones within the time period allowed.  
21 Accordingly, this case shall be DISMISSED without prejudice  
22 pursuant to Federal Rule of Civil Procedure 4(m).

23 **IT IS SO ORDERED.**

24 DATED: This 20th day of July, 2011.

25   
26

27 UNITED STATES DISTRICT JUDGE  
28